

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**IN RE: WRIGHT MEDICAL  
TECHNOLOGY, INC.,  
CONSERVE HIP IMPLANT  
PRODUCTS LIABILITY  
LITIGATION**

**MDL DOCKET NO. 2329  
ALL CASES**

**1:12-MD-2329-WSD**

**PRETRIAL ORDER NO. 1  
PRACTICE AND PROCEDURE ORDER UPON TRANSFER  
PURSUANT TO 28 U.S.C. § 1407(a)**

1. This order shall govern the initial procedure in those actions transferred to this Court by the Judicial Panel on Multidistrict Litigation (“MDL Panel”) pursuant to its order of February 27, 2012, and also shall govern all related actions originally filed in this Court, or transferred or removed to this Court (the “MDL Action”). The cases currently assigned to the MDL Action are listed in Schedule A attached to this Order. This Order also governs the procedure in (i) any tag-along actions transferred to this Court by the MDL Panel pursuant to Rule 7.1 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, and (ii) any related actions subsequently filed, removed or otherwise transferred to this Court.

2. The actions described in **Schedule A**, and any other actions described in paragraph 1 of this Order, which are assigned to the MDL Action, are consolidated for pretrial purposes.

3. All counsel, resident and non-resident, who appeared in a transferor district court in any case previously or hereafter transferred to this Court by the MDL Panel are deemed to have made their appearance in this Court in the MDL Action. Counsel in any case later filed in, removed to, or transferred to this Court (other than a transfer by the MDL Panel) and which becomes a case in the MDL Action are required to enter an appearance in this Court.

4. Non-resident attorneys in any case consolidated into the MDL Action are not required to apply for permission to appear in the MDL action, as is ordinarily required by the Court's Local Rule. LR 83.1B(1), NDGa. Non-resident attorneys allowed under this paragraph and Paragraph 3 are not required to associate with local counsel in this district as ordinarily required by the Court's Local Rule. Id. 83.1B(2). The provisions of this paragraph apply only to attorneys already duly admitted to practice before any United States District or Circuit Court. All counsel must familiarize and comport themselves in accordance with the Georgia Rules of Professional Conduct and the Rules of this Court.

5. All attorneys of record must immediately, but no later than March 23, 2012 (or five (5) calendar days after a case is later transferred to the MDL Action), register with this Court's CM/ECF system. All filings in this MDL Action shall be made electronically using this Court's CM/ECF system, subject to the exceptions prescribed in this Court's Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means, Appendix H to the Court's Local Rules.

6. The Clerk of this Court will maintain a master docket case file styled In re: Wright Medical Technology, Inc., Conserve Hip Implant Products Liability Litigation, No. 1:12-md-2329, with the identification MDL No. 2329. When a filing is intended to be applicable to all actions, this must be indicated by the words: "This Document Relates to All Actions."<sup>1</sup> Such a filing must only be filed in the master docket case file, No. 1:12-md-2329. When a filing is intended to apply to fewer than all cases, this Court's docket number for each individual case to which the document relates must appear immediately after the words: "This

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<sup>1</sup> The style of each case shall not be included in the filing.

Document Relates To.”<sup>2</sup> Such a filing must be filed in the master docket case file, No. 1:12-md-2329, and in the individual applicable docket case file(s) as well.

7. To ensure an accurate record of all outstanding motions, by March 26, 2012, any party who filed a motion in any action to date must refile that motion on this Court’s CM/ECF system in the master docket case file, No. 1:12-md-2329. If an outstanding motion is applicable to less than all cases, it must be refiled in those individual case dockets as well. These filings shall comply with the provisions of Paragraph 6 of this Order.

8. Until an order is entered following the initial pretrial conference (“Initial Organization Conference”), all filings shall be served electronically on each attorney listed as counsel for a party in the MDL Action. Any attorney who wishes to have his or her name added or removed as an attorney of record in the MDL Action must request the Clerk of this Court to add or remove the name requested. The attorney must transmit notice of such addition or removal to all other counsel of record by filing a Notice of Addition or Removal of Counsel in the MDL Action. Service shall be deemed sufficient if made by filing a motion or

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<sup>2</sup> The individual docket numbers assigned to date are attached as part of Schedule A.

pleading in the MDL Action.

9. Each party shall be represented by counsel, and counsel for each party shall, no later than March 23, 2012, identify to Ms. Jessica Birnbaum (**[jessica\\_birnbaum@gand.uscourts.gov](mailto:jessica_birnbaum@gand.uscourts.gov)**), the Court's Courtroom Deputy Clerk, a single Lead Counsel for each party separately represented in the MDL Action. If a party is represented by more than one lawyer or more than one law firm, only one lawyer representing that party may be identified as Lead Counsel. The same lawyer may serve as Lead Counsel for multiple parties, and if so, that lawyer should identify himself as Lead Counsel for each party represented. The Clerk of Court will modify the CM/ECF system to reflect that each party's Lead Counsel is deemed a "LEAD ATTORNEY" in the CM/ECF system.

10. The Court will not routinely conduct hearings on motions. If a hearing is scheduled, the Court will enter an order setting the date and time of the hearing.

11. Any orders, including protective orders previously entered by a transferor court, shall remain in full force and effect, unless a party to the action in which the order was entered requests this Court to modify or vacate the order and the Court grants the moving party's request to modify or vacate. At the Initial

Organization Conference, the Court will discuss with the parties the entry of a uniform, consolidated protective order for those parties who request a protective order.

12. All discovery in the MDL Action cases is stayed until further order of this Court. All transferor court orders addressing discovery are vacated. The time requirements to perform any acts or file any papers pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure are suspended until the Initial Organization Conference is conducted. The Court will, at the Initial Organization Conference, discuss with the parties the details of a discovery schedule.

13. The filing of new substantive motions and briefing of previously filed motions is stayed until further order of this Court.

14. The Initial Organization Conference in this matter will be held at **10:00 a.m. on April 23, 2012**, Courtroom 1705, Richard B. Russell Building, 75 Spring Street, S.W., Atlanta, Georgia. The following apply to the Initial Organization Conference:

- One counsel for each party must appear at the Initial Organization Conference. To minimize costs and facilitate a manageable conference, parties with similar interests may agree

to designate an attending attorney to represent them at the conference.

- Counsel for the parties must meet and confer by April 2, 2012.<sup>3</sup>

By April 9, 2012, counsel must file a Proposed Case Management Order and a Proposed Conference Agenda. If counsel cannot agree on particular items, they must include, as a separate filing, a brief statement of their respective conflicting positions. The Proposed Case Management Order and the Proposed Conference Agenda must include the following:<sup>4</sup>

- a. Dates for amendment of pleadings;
- b. Dates by which dispositive motions and other pretrial motions shall be filed;
- c. A detailed discovery plan;<sup>5</sup>

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<sup>3</sup> To ensure that the meet-and-confer process is conducted in an orderly fashion at this stage of the litigation, counsel in the first-filed case, Mims, et al. v. Wright Medical Technology, Inc., et al., No. 1:11-cv-213, shall initiate the meeting of all counsel in these actions.

<sup>4</sup> The parties should be guided generally in the action by the *Manual of Complex Litigation, Fourth*, including Sections 22.6, 22.61, 22.62, and 22.63.

<sup>5</sup> The parties shall refer to this Court's Standing Order Regarding Civil Litigants, which describes the contents of the plan. Counsel are advised to visit the

- d. A list of each previously entered order;
- e. Treatment of currently pending motions to dismiss and whether these or any other motions should be considered on an expedited basis;
- f. Whether any pleadings in the various cases or any pending motions considered to be filed may be presented as consolidated motions that may apply to multiple cases, including whether a consolidated complaint(s) is feasible to be filed;
- g. The schedule for regular telephone conferences with the Court (i.e., dates and times);
- h. A list of all related cases, if any, pending in state or federal court and their current status, to the extent known;
- i. A target date for the conclusion of the MDL; and

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district court's website at [www.gand.uscourts.gov](http://www.gand.uscourts.gov). On the home page, locate the Attorney Information link which will direct you to Preparation for a Civil and/or Criminal Trial Before Judge Duffey, where the Court has provided its Standing Order Regarding Civil Litigants.



- j. Notices of and procedures for the presentation of documents and evidence.

15. At the Initial Organization Conference, the parties should be prepared to provide input regarding the process for selecting Lead and Liaison Counsel, unless the parties can agree on which counsel will perform these functions. Counsel should also be prepared to discuss whether there is a need for a Steering Committee, and if so, who might serve as steering committee members and the function the committee would perform. Any counsel who wishes to serve as Lead Counsel or Liaison Counsel must file their application by April 9, 2012. The application must include:

- a. A resume including a description of prior experience in complex litigation;
- b. References;
- c. Any arrangements for coordination among counsel including any arrangements for distribution of work and compensation;
- d. Projected fee proposals, rates, and percentages of a common fund that an applicant is seeking if the

litigation succeeds; and,

- e. Any side agreements on compensation with any other attorney(s).

16. If a Steering Committee is convened, the Court will later set a date for counsel interested in serving on the committee to apply to serve.

17. Counsel must immediately review the Attorney Service List, attached as **Schedule B**, to verify that the information on it is accurate and complete, including mailing addresses, email addresses, fax and telephone numbers. If any of the information is inaccurate or incomplete, the attorney whose information is not accurate must notify the Clerk of this Court on or before March 26, 2012, of the information to be corrected. Any attorney who wishes to be added to or deleted from the Attorney Service List may request the Clerk of this Court to take such action, with notice to all persons on the service list, provided that the requirements of Paragraph 8 are met.

18. Orders and notices from the Court will be transmitted to counsel by CM/ECF only. Orders or notices from the Court will not be sent by mail or any other means of transmission.

19. Unless or until otherwise modified in this or any subsequent order of

this Court, an order previously entered in any consolidated case shall remain in full force and effect.


20. The Court will be guided by the applicable provisions of the 2004 edition of the Manual for Complex Litigation.

21. Parties and their counsel are reminded of their duty to take legally-required and other measures to preserve documents, electronically stored information, and all other items that are potentially relevant.

SUMMARY OF RELEVANT DATES	
<b>On or before March 23, 2012</b>	Lead Counsel must be designated to <a href="mailto:jessica_birnbaum@gand.uscourts.gov">jessica_birnbaum@gand.uscourts.gov</a> .
<b>On or after March 23, 2012</b>	All pleadings and other papers must be filed on this Court's ECF system. All orders and notices from the Court will be transmitted to counsel only by ECF. No orders or notices from the Court will be transmitted by mail or by fax.
<b>On or before March 26, 2012</b>	Counsel must review the Attorney Service List (attached as Schedule B) and, if any information is inaccurate or incomplete in any way, notify the Clerk of this Court.
<b>On or before March 26, 2012</b>	All motions previously filed in any action must be refiled in the master docket case file, No. 1:12-md-2329, and in the relevant individual case docket.
<b>On or before April 2, 2012</b>	Counsel must meet and confer.

<b>On or before April 9, 2012</b>	Counsel must file a Proposed Case Management Order and a Proposed Conference Agenda.
<b>On or before April 9, 2012</b>	Any counsel who wishes to serve as Lead Counsel or Liaison Counsel must file an application.
<b>April 23, 2012 at 10:00 a.m.</b>	The Initial Organization Conference will be held in Courtroom 1705 of the U.S. Courthouse, 75 Spring Street, SW, Atlanta, GA.

**SO ORDERED** this 19th day of March, 2012.

  
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WILLIAM S. DUFFEY, JR.  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

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**IN RE: WRIGHT MEDICAL  
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CONSERVE HIP IMPLANT  
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**THIS DOCUMENT RELATES TO:  
ALL ACTIONS**

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**MDL DOCKET NO. 2329**

**1:12-MD-2329-WSD**

**SCHEDULE A  
CURRENT CASE LIST**

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Mims, et al v. Wright Medical Technology, Inc.  
Northern District of Georgia Case No. 1:11-cv-213

Piper, et al v. Wright Medical Technology, Inc., et al  
Northern District of Georgia Case No. 1:11-cv-4409

Dees, et al v. Wright Medical Technology, Inc., et al  
Northern District of Georgia Case No. 1:11-cv-4415

James v. Wright Medical Technology, Inc., et al  
(Southern District of Georgia Case No. 2:11-cv-200)  
Northern District of Georgia Case No. 1:12-cv-425

Welch v. Wright Medical Technology, Inc., et al  
(District of Arizona Case No. 2:11-cv-2113)  
Northern District of Georgia Case No. 1:12-cv-593

Baker, et al v. Wright Medical Technology, Inc., et al  
Northern District of Georgia Case No. 1:12-cv-598

Snitkoff v. Wright Medical Technology, Inc., et al  
(District of Utah Case No. 2:11-cv-390)  
Northern District of Georgia Case No. 1:12-cv-612

Tice v. Wright Medical Technology, Inc., et al  
(District of Oregon Case No. 6:12-cv-128)  
Northern District of Georgia Case No. 1:12-cv-613

Claussenius v. Wright Medical Technology, Inc., et al  
(District of Oregon Case No. 6:11-cv-6179)  
Northern District of Georgia Case No. 1:12-cv-614

Minton, et al v. Wright Medical Technology, Inc., et al  
(District of Oregon Case No. 6:11-cv-6388)  
Northern District of Georgia Case No. 1:12-cv-615

Jarrett v. Wright Medical Technology, Inc., et al  
(Southern District of Indiana Case No. 1:12-cv-64)  
Northern District of Georgia Case No. 1:12-cv-625

Ames v. Wright Medical Technology, Inc., et al  
(Southern District of Illinois Case No. 3:11-cv-1132)  
Northern District of Georgia Case No. 1:12-cv-626

Sakjas v. Wright Medical Technology, Inc., et al  
(Eastern District of Michigan Case No. 2:12-cv-10080)  
Northern District of Georgia Case No. 1:12-cv-628

Aldrich, et al v. Wright Medical Technology, Inc., et al  
(District of Arizona Case No. 2:11-cv-363)  
Northern District of Georgia Case No. 1:12-cv-664

Pommrehn v. Wright Medical Technology, Inc., et al  
(District of Colorado Case No. 1:11-cv-202)  
Northern District of Georgia Case No. 1:12-cv-692

Graves, et al v. Wright Medical Technology, Inc., et al  
(District of Colorado Case No. 1:11-cv-3413)  
Northern District of Georgia Case No. 1:12-cv-693

Korszeniewski v. Wright Medical Technology, Inc., et al  
(Southern District of California Case No. 3:11-cv-3028)  
Northern District of Georgia Case No. 1:12-cv-766

Taylor v. Wright Medical Technology, Inc., et al  
(Central District of California Case No. 2:12-cv-372)  
Northern District of Georgia Case No. 1:12-cv-767

Kearn v. Wright Medical Technology, Inc., et al  
(Central District of California Case No. 5:11-cv-1652)  
Northern District of Georgia Case No. 1:12-cv-768

Curran v. Wright Medical Technology, Inc., et al  
(Central District of California Case No. 2:11-cv-8771)  
Northern District of Georgia Case No. 1:12-cv-784

Elston v. Wright Medical Technology, Inc., et al  
(Southern District of California Case No. 3:12-cv-134)  
Northern District of Georgia Case No. 1:12-cv-805

**IN THE UNITED STATES DISTRICT COURT  
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**IN RE: WRIGHT MEDICAL  
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ALL ACTIONS**

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**MDL DOCKET NO. 2329**

**1:12-MD-2329-WSD**

**SCHEDULE B  
ATTORNEY SERVICE LIST**

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